

REMARKS

By this amendment, claims 1, 4, 5, 7 through 9, 11 through 27, and 30 are pending. Claims 2, 3, 6, 10, 28, 29, 31, and 32 were previously canceled without prejudice or disclaimer. Claims 5 and 18 are currently amended. No new matter is introduced.

The Office Action mailed August 29, 2011 rejected claims 5 and 18 under 35 U.S.C. §101 as directed to non-statutory subject matter, claims 9, 11 through 16, 18, and 26 as obvious under 35 U.S.C. §103(a) based on Lindqvist et al. (“Lindqvist”) (US 2003/0088778) in view of Corts et al. (“Corts”) (US 2002/0141491), claims 1, 4, 5, 7, 8, 19 through 23, 25, 27, and 30 as obvious under 35 U.S.C. §103(a) based on Lindqvist et al. (“Lindqvist”) (US 2003/0088778) and Corts et al. (“Corts”) (US 2002/0141491) in view of Yoshii et al. (“Yoshii”) (US 2003/0105809), and claim 17 as obvious under 35 U.S.C. §103(a) based on Lindqvist et al. (“Lindqvist”) (US 2003/0088778) and Corts et al. (“Corts”) (US 2002/0141491) in view of Dale et al. (“Dale”) (US 2004/0022307).

The rejection of claims 5 and 18 under 35 U.S.C. §101 is respectfully traversed.

Claims 5 and 18 have been amended to recite that the computer-readable storage medium is “non-transitory.”

Accordingly, withdrawal of the rejection of claims 5 and 18 under 35 U.S.C. §101 is respectfully solicited.

The rejection of claims 9, 11 through 16, 18, and 26 under 35 U.S.C. §103(a) is respectfully traversed.

Independent claim 9 recites, *inter alia*, “selectively receiving, from a datacast operator, **prior to receiving the electronic service guide data**, supplementary data which is specific to the geographic area served by the datacast operator.”

The Examiner acknowledged that Lindqvist does not disclose supplementary data, which is specific to the geographic area served, and relied on Corts, specifically paragraph [0048], for an asserted teaching of this claim feature.

Paragraph [0048] of Corts recites, in pertinent part, “supplemental digital data can be classified as traffic data and be identified as a particular provider of traffic data for a particular geographical region.” Thus, the supplemental data in Corts relates to traffic data, and perhaps news and weather data. That data would **not be received prior to receiving the electronic service guide data**, as claimed. Therefore, Corts suggests geographic-specific supplemental data that is **not received prior to any electronic service guide data**. While the Examiner does not identify what, in Lindqvist, is alleged to correspond to the claimed “supplemental data,” to whatever extent Lindqvist suggests receiving electronic service guide data and/or receiving supplemental data prior to EPG data (Applicant does not admit any such teaching by Lindqvist), any such supplemental data is not geographic-specific. The Examiner cited paragraph [0096] of Lindqvist, but this cited portion of Lindqvist relates to the periodic sending of service announcements to reception terminals, wherein the terminals may save this data to build a list of available distributions of content. This listing is referred to by Lindqvist as an “electronic service guide (ESG). To whatever extent the Examiner considers the service announcements to correspond to the claimed “supplemental data” because such data is received prior to the forming of the ESG, these service announcements are not disclosed as being “geographic-specific.”

Thus, neither Lindqvist nor Corts discloses or suggests, “selectively receiving, from a datacast operator, **prior to receiving the electronic service guide data, supplementary data** which is **specific to the geographic area served by the datacast operator.**” Therefore, no *prima facie* case of obviousness has been established regarding the subject matter of independent claim 9.

Moreover, Lindqvist and Corts are not properly combinable. Other than engaging in impermissible hindsight gleaned from Applicant’s own disclosure, there would have been no reason to combine these two disparate teachings because there would have been no reason to substitute news, weather, or traffic data for the service announcements of Lindqvist and there would have been no reason to substitute the service announcements of Lindqvist for the news, weather, and traffic data of Corts. Therefore, the proposed combination of references is improper and would not result in the claimed subject matter even if the combination were made.

Accordingly, the rejection of independent claim 9, and claims 11 through 16, 18, and 26, dependent thereon, under 35 U.S.C. §103(a) is neither factually nor legally viable. Therefore, the withdrawal of this rejection is respectfully solicited.

The rejection of claims 1, 4, 5, 7, 8, 19 through 23, 25, 27, and 30 under 35 U.S.C. §103(a) is respectfully traversed.

Independent claim 1 recites, *inter alia*, “providing one or more data files including information for **locating a main page of the datacast operator, the main page including at least some of said supplementary data.**” Independent claims 7, 8, 19, and 20 recite, *inter alia*, “wherein the supplementary data includes **data for identifying the datacast operator.**”

The feature of “providing one or more data files including information for **locating a main page of the datacast operator, the main page including at least some of said supplementary data,**” recited in independent claim 1, is not taught or suggested by either Lindqvist or Corts, or the combination thereof.

In apparent recognition of this deficiency of the Lindqvist/Corts combination, the Examiner relied on Yoshii, particularly Figs. 15, 16, 53, and 54, and “main page 600 and 1000” at paragraph [0380], for an asserted teaching of this claim feature. Applicant respectfully disagrees.

Initially, Yoshii does not cure the deficiencies of Lindqvist/Corts with regard to “selectively providing, by a datacast operator, **supplementary data that is specific to the geographic area served by the datacast operator,**” of claim 1 for the reasons previously argued.

Moreover, Yoshii does not disclose or suggest, “providing one or more data files including information for **locating a main page of the datacast operator, the main page including at least some of said supplementary data.**” Rather, the “main page” recited in paragraph [0380] of Yoshii is only in reference to the ability of an operator to return to the “main page 1000” by selecting a return link in either a reservation/delivery track record page or a viewer statistics page. There are **no data files** discussed in Yoshii **that include information for locating the main page, much less locating the main page of a datacast operator, especially where the main page includes at least some of the supplementary data that is specific to the geographic area served by the datacast operator,** as claimed. It is not permissible for the Examiner to pick and choose only so much from a reference, such as a “main page” from Yoshii, and attempt to force fit a modification of the primary references by

employing a recitation of “main page” having nothing to do with a main page of a datacast operator, as claimed, and assert that the proposed combination would have been obvious. This is antithetic to the meaning of “obviousness,” within the meaning of 35 U.S.C. §103(a).

Accordingly, independent claim 1, and claims 4, 5, 22, 23, and 27, dependent thereon, is not obvious over the combination of Lindqvist and Corts in view of Yoshii.

The feature of “wherein the supplementary data includes **data for identifying the datacast operator**,” recited in independent claims 7, 8, 19, and 20, is also not taught or suggested by any one of Lindqvist, Corts, and Yoshii, or any combination thereof.

The Examiner relied on Yoshii, particularly paragraphs [0137] and [0147], for an asserted teaching of the supplementary data including data for identifying. Applicant respectfully disagrees. The cited portions of Yoshii relate to a program ID field containing an identification code of a program that was registered in a video distribution server by a program provider and to other fields storing identification codes. However, the mere disclosure of “identification” codes stored in various fields in Yoshii is not a disclosure, or even a suggestion, of supplementary data, which is specific to a geographic area served by the datacast service operator, **wherein the supplementary data includes data for identifying the datacast operator**. That is, the “identification” in Yoshii is not relevant to the specific identification of claims 7, 8, 19, and 20. The general use of “data for identifying” something, as in Yoshii is not suggestive, in any way, shape, or form, of data that identifies a “datacast operator,” much less supplementary data that includes the data for identifying the datacast operator. Moreover, there would have been no suggestion in any of the applied references that would have led the person of ordinary skill in the art to use the general teaching of using data to identify something and apply that general teaching

in any manner to modify Lindqvist and/or Corts so as to provide for the same supplementary data, which is specific to a geographic area served by a datacast service operator, to include data for identifying that datacast operator. Only through impermissible hindsight could the person of ordinary skill in the art arrive at the present claimed invention.

Accordingly, no *prima facie* case of obviousness has been established regarding the subject matter of independent claims 7, 8, 19, and 20.

Thus, the rejection of claims 1, 4, 5, 7, 8, 19 through 23, 25, 27, and 30 under 35 U.S.C. §103(a) is neither factually nor legally viable. Therefore, withdrawal of this rejection is respectfully solicited.

The rejection of claim 17 under 35 U.S.C. §103(a) is respectfully traversed.

Dale does not cure the previously argued deficiencies of the Lindqvist/Corts combination. Thus, no *prima facie* case of obviousness has been established regarding the subject matter of claim 17.

Accordingly, the rejection of claim 17 under 35 U.S.C. §103(a) is neither factually nor legally viable. Therefore, withdrawal of this rejection is respectfully solicited.

Therefore, the present application, as amended, overcomes the rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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